United Nations A/HRC/38/NGO/100

General Assembly

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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Global Institute for Water, Environment and Health, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809798

Please recycle

The Syria Arab Republic: Security Council repeated vetoes and their consequences on the human rights situation*

INTRODUCTION

The Permanent Five member-states (P5) of the United Nations Security Council are tasked with the responsibility to ensure peaceful relations and prevent any threat to international peace and security.

Some of the past failures of the Security Council and the International Community to ensure basic human rights are well recognized. Rwanda, Srebrenica, "Kosovo"[1], and the ongoing crisis in the Occupied Palestinian Territories- all cases in which the veto was invoked at the expense of the protections of human lives.

The conflict and subsequent proxy battles that have taken place in Syria for the last 7 years have taken unimaginable numbers of lives, destabilized the entire region, pushed millions of people to internally migrate and millions more to become international refugees.
Since the beginning of the Syrian crisis, 16 resolutions have been proposed in the Security Council on Syria, 10 of which have been vetoed by the Russian Federation foremost, with frequent support from the People's Republic of China.[2]

It is our hope at the Euro-Mediterranean Human Rights Monitor (Euro-Med Monitor) and the Global Institute of Water, Environment and Health (GIWEH), in presenting our findings, to draw the attention of the UN member states to the dangers of blanket veto power, and to encourage immediate action to rectify it.

IMPACTS ON ESCALATION/TERRORISM

Many factors contribute to the rise of extremism in the Syrian conflict and take primary responsibility. However, the Security Council's inability to intervene to stop threats to global security and peace when the veto is misused, and the message this sends to both the government and the people on the ground, has aided the cultivation environments which breed extremism, terrorism, and the escalations of the conflict.
One example of this can be found in the first veto:
Resolution S/2011/612[3], on the 4th of October 2011, which was vetoed by China and Russia.

Purpose: The purpose of this resolution was to condemn Syrian authorities' violation of human rights, and their use of force against civilians, requesting the protection of fundamental freedoms for the Syrian people.[4]

The rationale given for this veto by Russia was that it could be seen as a unilateral threat, which violates the principles of national sovereignty and non-interference.

Impact: This veto was a clear sign to the Syrian people that the government enjoys protection from within the highest authority in the international community.
At that point in the crisis, the Syrian peaceful and rights-seeking movement started quickly to militarization in apposition to abuses of their basic freedoms to press, speech, expression and information. Small groups that had split

[1] References to Kosovo shall be understood to be in full compliance with Security Council resolution 1244 (1999) and without prejudice to the status of Kosovo.
[2] Security Council - Veto List. Link: http://research.un.org/en/docs/sc/quick
[3] France, Germany, Portugal and United Kingdom of Great Britain and Northern Ireland: draft resolution, United Nations Security Council, 4 October 2011. Link: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Syria%20S2011%20612.pdf
[4] Ibid.

from the Syrian army, gradually turned into an offensive force. With the unabated impunity the Syrian government enjoyed in their violations against civilians and unarmed demonstrators, even at the level of the security council of the united nations, the number of dissidents from the army began increasing to tens of thousands, and by the end of 2011, these groups joined in the form of an armed opposition calling itself the Free Syrian Army.[5]

A TURNING POINT

One of the most far-reaching aspects of the abuse of veto power with regard to Syria came on the **19th of July 2012,** after using the veto by Russia and China of **Resolution S/2012/538:**[6]
This intended resolution invoked Article 41 of the UN Charter, calling for punitive measures if the Syrian government did not cease troop movements, and dismantle military concentrations around population centers within 10 days. In addition, it would have extended the mandate of the UN Supervision Mission in Syria (UNSMIS) for 45 days.

The proclaimed rationale for this veto was that it represented and improperly attempt at government change and meddling. Russia, with the support of China, refused to agree to any measure that would interfere in Syria's domestic affairs.

This veto had some of the direst consequences due to its role in affectively re-defining the Syrian crisis as an internal affair. This signalled a shift in the international discussion, and the internalization of the conflict sent a very clear message to the Syrian citizens, and to the world: that whoever caused what was happening to the Syrian people would continue to enjoy impunity.[7]

USE OF CHEMICAL WEAPONS, WAR CRIMES

After the heinous use of chemical weapons against the Syria people in 2013, the horrors of chemical warfare were once again on the international agenda. Several countries reported to the Security Council the use of chemical weapons in different areas in Syria. As a result, in 2014, a new resolution was to be voted on by member states at the UNSC. **Resolution S/2014/348**[8] was vetoed by Russia and China.
This Resolution Charged that crimes against humanity and war crimes had been committed in the Syrian Arab Republic and demanded that the situation in Syria be referred to the prosecutor of the International Criminal Court (ICC).

The next two years after the veto saw some of the greatest bloodshed, and highest displacement rates, with an estimation nearing a quarter of a million dead by the end of 2015, and by the end of 2016, an average of 50 families were displaced *every hour of every day*. Then, in 2017, the deadly record of the 2013 attacks was superseded.

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[5] Elizabeth O'Bagy. The free Syrian army: Middle East Security Report 9. March 2013. Link: http://www.understandingwar.org/sites/default/files/The-Free-Syrian-Army-24MAR.pdf

[6] France, Germany, Portugal, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution, United Nations Security Council, 19 July 2012. Link: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Syria%20S2012%20538.pdf

[7] Security Council Fails to Adopt Draft Resolution on Syria That Would Have Threatened Sanctions, Due to Negative Votes of China, Russian Federation. 19 July 2012. Link: https://www.un.org/press/en/2012/sc10714.doc.htm

[8] Albania, Andorra, Australia, Austria, Belgium, Botswana, Bulgaria, Canada, Central African Republic, Chile, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Jordan, Latvia, Libya, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Monaco, Montenegro, Netherlands, New Zealand, Norway, Panama, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution, United Nations Security Council, 22 May 2014. Link: www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_348.pdf

The twelve vetoes by Russia and six vetoes by China over the past seven years of Syria's civil war clearly demonstrate the need for all Security Council members to adhere to the ACT Code of Conduct[9] in mass atrocity situations, which has been signed by 113 member-states and 2 observers. Deep and comprehensive Security Council reform is needed to enable it to consistently and comprehensively uphold its responsibility to protect (R2P).

RECOMMENDATIONS

The Euro-Med Monitor and GIWEH argue that allowing the implementation of these vetoes without bringing in the International Criminal Court (ICC) has exposed the chilling disregard of the international community for the violations of Syrians' human rights throughout the conflict.

The Euro-Med Monitor and GIWEH therefore call on the Human Rights Council and its member states to call upon:

The UN General Assembly to:

- reactivate the "United for Peace" mechanism adopted by GA Resolution 377[10], which allows the General Assembly to consider an issue when the Security Council fails to approve appropriate measures to maintain international peace and security.
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The Member States to:

- Adopt a clause allowing cases of war crimes, crimes against humanity and genocide to be brought to the attention of the International Criminal Court irrespective of decisions taken by the Security Council;
- Appoint an independent counsel to investigate such situations where peace and security appear to be threatened;
- Review the practice of veto in cases of widespread resolution acceptance, and to look for reforming the powers of the non-permanent members and possible ways to expand non-permanent membership authority;
- Support the International, Impartial and Independent Mechanism (IIIM)[11] for Syria established by the UN General Assembly in 2016 to investigate atrocities and provide an alternative route to accountability and facilitate the work of the IIIM through the provision of voluntary funding and technical assistance.

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*Euro-Mediterranean Human Rights Monitor, NGO without consultative status, also shares the views expressed in this statement.

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[9] "The purpose of the Code of Conduct is to contribute to greater political accountability at the United Nations." ACT group formally launches Security Council Code of Conduct. Center for UN Reform Education. October 2015. Link: http://centerforunreform.org/?q=node/679

[10] General Assembly Resolution 377. Link: http://www.un.org/en/sc/repertoire/otherdocs/GAres377A%28v%29.pdf

[11] International, Impartial and Independent Mechanism on international crimes committed in the Syrian Arab Republic, 34th session of the Human Rights Council, 27 February 2017. Link: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21241

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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

INDIA: Climate of impunity allows extrajudicial executions to go unchecked

The Asian Legal Resource Centre (ALRC) is writes to the United Nations Human Rights Council seeking its attention and intervention considering the violent culture of extrajudicial, summary and arbitrary executions in India.

The violent climate operating in India is allowed to flourish to the lack of accountability and encouragement of impunity for security forces and police officials that carry out these executions. The ALRC is deeply concerned with the breakdown of rule of law in many parts of the country, notable Uttar Pradesh, Manipur, Indian Administered Kashmir and others, both conflict zones and otherwise, where extrajudicial executions take place with an alarming regularity. These executions are often allowed to continue with state approval making it state-sponsored crime, the most difficult crimes to obtain justice for due to the veritable capture of public institutions.

The ALRC places on record its deep anguish in the manner in which the Tamil Nadu State government and the Tuticorin police have handled protesters in Tuticorin, who were protesting the Sterlite copper plant of the Vedanta company, and the pollution caused by it. Protesting for the last 100 days, the protests turned violent and the police opened fire on the protesters, killing 11 and injuring many. According to People's Watch, human rights organisation in Tamil Nadu, the protest turned violent after the police firing, which was also by police in plain clothes. The gross inaction of the state government for over 3 months, failing to heed the protestor's concerns have resulted in this deplorable situation of arbitrary executions, in the name of 'law and order'.

In Manipur, the ALRC's sister organisation, AHRC issued an urgent appeal to ensure protection for the whistle-blower killer cop, Herojit Singh who confessed to executing many innocent and unarmed people in the fight against the insurgency, maintaining details of who ordered the kills and other details in his diaries. These diaries were confiscated by the officials and he feared for his life, as he was also prevented from deposing in ongoing cases. Herojit's confessions are startling and serious and must be dealt with urgency as it exposed the rot within our policing system and the complete breakdown of rule of law and our criminal justice institutions.

The people of India deserve the benefits of due process and rule of law The ALRC urges the UN Human Rights Council to engage with the Government to India to put an end to illegal and violent policing that is becoming the order the day, replacing due process and justice processed. The ALRC urges GOI and the state governments to ensure strict action is taken against those law-enforcement officials that are engaging in these 'encounter' killing which are illegal and inhumane. The law of the land mist be followed and no one is above it.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

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1810249

Please recycle

INDIA: Right to freedom of opinion and expression deteriorating

The Asian Legal Resource Centre (ALRC) along with its sister concern, the Asian Human Rights Commission (AHRC) wishes to bring the state of the right to freedom of opinion and expression in India to the Human Rights Council of the United Nations.

The ALRC is deeply concerned with the deteriorating climate for the freedom to voice one's opinion in India, especially when speaking up against the majoritarian, populist narrative or standpoint in the country. In the 2018 World Press Freedom Index, India dropped two more ranks to be placed at 138 out of 180 countries, a dismal rank for the so-called 'largest' democracy in the world. The reasons cited for this were manifold, but mainly the misuse of Section 124A of the Indian Penal Code which defines the offence of sedition, and one that has been severely misused to target journalists speaking out against injustice.

The murder of journalists was another major reason with the murder of Gauri Lankesh, the staunchly anti-right journalist in Bangalore, exposing starkly the fault lines in India's political and media landscape. Further, Reporters without Borders, while explicating on India's fall in the rankings, speaks of online smear campaigns against those who dare to speak up against right-wing and Hindutva ideologies and the difficulty and sometimes, near impossibility in reporting from conflict zones, such as Indian Administered Kashmir.

The ALRC places on record its deep anguish in the manner in which the Tamil Nadu State government and the Tuticorin police have handled protesters in Tuticorin, who were protesting the Sterlite copper plant of the Vedanta company, and the pollution caused by it. Protesting for the last 100 days, the protests turned violent and the police opened fire on the protesters, killing 11 and injuring many. According to People's Watch, human rights organisation in Tamil Nadu, the protest turned violent after the police firing, which was also by police in plain clothes. The gross inaction of the state government for over 3 months, failing to heed the protestor's concerns have resulted in this deplorable situation.

The people of India have a right to freedom of speech, opinion and expression, whether online, when reporting, or on the streets when protesting. The ALRC urges the UN Human Rights Council to engage with the Government to India to put an end to this hyper-nationalist and violent policing that is becoming the order the day, and urge the GOI and the state governments to engage peacefully and negotiate sincerely with protestors and others who are speaking out against injustice and demanding action.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

INDIA: Human rights of migrants under threat

The Asian Legal Resource Centre (ALRC), along with its sister concern, the Asian Human Rights Commission (AHRC) draws the attention of the Human Rights Council of the United Nations on the state of the human rights of migrants in India.

The ALRC is deeply concerned with the Indian's government's stance on the rights of migrants, especially of the Rohingyas that the Indian government refuses to recognise as refugees and is instead threatening to deport them on the basis of their being economic migrants. The ALRC urges the UN Special Rapporteur on the human rights of migrants to engage with the Indian government on the issue of the Rohingyas and their status as refugees.

India is also home to migrants from bordering countries such as Sri Lanka, Bangladesh, Nepal and Pakistan, who are in India for economic, family reunion or other reasons. AHRC's partner organisation MASUM in West Bengal routinely sends information regarding the ill-treatments and human rights abused, including torture and extra-judicial executions, meted out on Bangladeshi migrants at the Indo-Bangladesh border, particularly by the Border Security forces. Migrants in that region also face the threat of trafficking and in many cases are illegally detained in prisons in India, despite clear provisions barring the arrest of foreigners who may have been trafficked. MASUM also sends information regarding the treatment of Enclave Dwellers in India, who face peculiar issues due to the travails of history, and face issues of human rights abuses in the enclaves, including a lack of access to jobs, just policing and in many cases, basic amenities such as clean drinking water.

Domestic migrants in India, from states such as Assam and West Bengal, that migrate to other parts of India, too face extreme hardships and racism, with little or no protection from state governments. Migrants in India, whether domestic or cross-border, have a right to be treated humanely and a right to the protections of the law. The ALRC urges the UN Human Rights Council and the Special Rapporteur to engage with the Government to India to put an end to this hyper-nationalist and violent policing against migrants, that is becoming the order the day, and urge the GOI and the state governments to deal with the issues of migrants, including the Enclave dwellers, without resorting to force, violence or illegal arrest.